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ΤΗΛΕΠΙΚΟΙΝΩΝΙΩΝ
ΚΑΙ ΤΑΧΥΔΡΟΜΕΙΩΝ
(ΕΕΤΤ)

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For the attention of:
Mr Leonidas Kanellos
President

Fax: +30 21 06 151 113

Dear Mr Kanellos,

Subject: Commission Decision concerning Case EL/2012/1343: Voice call termination on individual mobile networks in Greece

Comments pursuant to Article 7(3) of Directive 2002/21/EC

I. PROCEDURE

The notification was received from the Hellenic Telecommunications & Post Commission (EETT)¹, on 13 June 2012 and became effective on that day. It concerns the third review of the market for wholesale voice call termination on individual mobile networks in Greece².

The national consultation³ ran from 6 April 2012 to 14 May 2012.

On 22 June 2012, a request for information (RFI)⁴ was sent to EETT and a response was

¹ In accordance with Article 7 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), OJ L 108, 24.4.2002, p. 33, as amended by Directive 2009/140/EC, OJ L 337, 18.12.2009, p. 37, and Regulation (EC) No 544/2009, OJ L 167, 29.6.2009, p. 12.

² Corresponding to market 7 in Commission Recommendation 2007/879/EC of 17 December 2007 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Recommendation on Relevant Markets), OJ L 344, 28.12.2007, p. 65.

³ In accordance with Article 6 of the Framework Directive.

⁴ In accordance with Article 5(2) of the Framework Directive.

received on 27 June 2012. Additional information from EETT was received on 2 July 2012.

Pursuant to Article 7(3) of the Framework Directive national regulatory authorities (NRAs), the Body of European Regulators for Electronic Communications (BEREC), and the Commission may make comments on notified draft measures to the NRA concerned.

II. DESCRIPTION OF THE DRAFT MEASURE

II.1. Previous notifications

The market for wholesale voice call termination on individual mobile networks in Greece was previously notified to and assessed by the Commission under cases EL/2008/0786⁵.

EETT concluded that all MNOs in Greece, namely Cosmote, Vodafone and Wind, should be designated with Significant Market Power (SMP) in their respective relevant markets. EETT proposed to maintain the regulatory obligations of: i) access; ii) non-discrimination; iii) transparency; iv) price control and v) accounting separation. As regards the price control obligation, EETT proposed a symmetric glide path towards Mobile Termination Rates (MTRs) of 4.95 eurocents/min as of 1 January 2011.

In its comments, the Commission pointed out to the work undertaken at that time within the European Regulators Group to arrive at a coherent cost accounting method for mobile termination and invited EETT to review its analysis as soon as a common approach has been established at the European level.

II.2. Market definition

EETT concludes that the relevant market is a market per network, and comprises the wholesale termination on 2G/3G networks, the wholesale termination for Homezone services as well as self-supply.

The relevant geographic markets are national.

II.3. Finding of significant market power

EETT proposes to designate all mobile network operators, namely Cosmote, Vodafone and Wind, as having SMP on their individual networks. The main criteria considered by EETT in reaching its conclusion are: i) 100% market share of each operator on its individual mobile network; ii) barriers to entry and potential competition; iii) power over prices, iii) absence of or low countervailing buying power; and iv) operators' behaviour.

II.4. Regulatory remedies

On the basis of the competition problems identified, EETT proposes imposing the following obligations on the three SMP operators: i) access to and use of specific network facilities; ii) transparency; iii) non-discrimination, iv) price control, and v) accounting separation.

As regards price control, EETT states that its existing cost model will be updated to a pure BU-LRIC cost model by the end of 2012. In the response to the RFI, EETT specified that as soon as the model is completed and the resulting price defined, it will issue a decision updating the target MTRs and the glide-path accordingly. In the

⁵ SG-Greffe(2008)D/204999. Previous notifications have been notified to and assessed by the Commission under cases EL/2006/0392, EL/2005/0178 and EL/2004/0078.

meantime, EETT, in order to provide regulatory certainty, proposes to set a target MTR based on benchmarking against those seven Member States (BE, FR, UK, ES, IT, NL, PT), which developed a pure BU-LRIC model before March 2012.

EETT further explains in its response to the RFI that it has selected these countries on the basis of the Commission's previous comments.⁶ EETT also points out that the proposed glide-path is set until 1 April 2013, which provides for a safeguard period of three months between the expected completion of the pure BU-LRIC model (December 2012) and the expiration of the glide-path.

With respect to the MTR figures to be used for the purpose of benchmarking, EETT specifies in its response to the RFI that since the final measures are issued in the official language of the respective Member States, it is considered appropriate to rely on the MTRs as presented in the Commission Article 7 decisions, as follows:

Member State	MTR price (c€/min)	Reference (EC case number)
Belgium	1.08	BE/2010/1086
France	0.8	FR/2011/1200
United Kingdom	0.81	Modification to adopted measures on mobile call termination UK/2010/1068
Spain	1.09	ES/2012/1291
Italy	0.98	IT/2011/1219
Netherlands	1.2	NL/2012/1285
Portugal	1.27	PT/2012/1312

EETT's approach results in an average target rate of 1.03 c€/min, corresponding to the last step of a glide-path based on the following symmetrical rates:

Proposed glide path				
MTRs	- 31/7/2012	1/8/2012- 31/11/2012	1/12/2012- 31/3/2013	1/4/2013-
(c€/min)	4.95	3.60	2.30	1.03

Whilst designing the glide-path, EETT took into account: i) the need to reach the target price at a sufficient pace in order to maximise consumer benefits; ii) the need to ensure sufficient time for the MNOs to adjust their business models⁷; iii) the need of such

⁶ EETT clarifies that it has verified the Bulgarian, Estonian and Slovak approaches, assessed respectively under cases BG/2012/1318 of 21 May 2012, EE/2012/1305 of 16 April 2012 and SK/2012/1313 of 30 April 2012. In the latter cases the Commission stated that the above seven countries are the ones which have so far notified a pure BU-LRIC model.

⁷ In the response to the RFI, EETT confirms that while defining the proposed glide path it has examined its potential impact on the MNOs' interconnection revenues for 2012 and 2013. EETT underlines that due to the financial crisis and recession of the Greek economy, MNOs' termination revenues (which

transition to take into account the deadline set by the Termination Rates Recommendation⁸, and iv) the need to avoid any waterbed effect.

III. COMMENTS

The Commission has examined the notification and the additional information provided by the EETT and has the following comment:⁹

Need for an appropriate price control ensuring that customers derive maximum benefits in terms of efficient cost-based termination rates

The Commission notes that EETT intends to develop a pure BU-LRIC cost model by the end of 2012, and that it proposes in the meantime to set the MTRs in Greece on the basis of a benchmarking method. Furthermore, the Commission notes that EETT confirmed that as soon as the model is completed and the resulting price defined, it will accordingly issue a decision updating the glide-path and the target pure BU-LRIC MTR, which is currently set to be achieved as of 1 April 2013.

The Commission points out that the purpose of Recital 22 and of Recommend 12 of the Termination Rates Recommendation is to enable NRAs, in case of limited resources, to come to a cost efficient rate without having to finalise a pure BU-LRIC model in a timely manner.

However, the Commission observes that the target MTR which EETT proposes on the basis of benchmarking is calculated on the basis of the pure BU-LRIC rates notified to the Commission without account being taken of the pure BU-LRIC MTRs being actually implemented in the Member States.

In this respect, the Commission invites EETT to verify whether the proposed benchmark rates actually correspond to the pure BU-LRIC rates set by the NRAs by way of final decisions in the respective Member States¹⁰, and in case deviations are identified, to correct the benchmark rates as appropriate.

In order to bring more quickly the benefits of lower MTRs to the consumers, the Commission further asks EETT to modify its glide-path in such a way that it would lead already as of 1 January 2013, the implementation deadline foreseen in the Termination Rates Recommendation, to MTRs corresponding to pure BU-LRIC rates. In any case, the Commission invites EETT to finalise its own pure BU-LRIC model as soon as possible in 2012, so that it can be applied already as of 1 January 2013.

Pursuant to Article 7(7) of the Framework Directive, EETT shall take the utmost account of the comments of other NRAs, BEREC and the Commission and may adopt the resulting draft measure; where it does so, shall communicate it to the Commission.

represent a small but important share of MNOs' total revenues) were considerably reduced in 2011. Cosmote's revenues have been reduced by [...]%, Vodafone's by [...]% and Wind's by [...]%.
⁸ Commission Recommendation of 7 May 2009 on the regulatory treatment of fixed and mobile termination rates in the EU, OJ L 124, 20.05.2009, p. 67.

⁹ In accordance with Article 7(3) of the Framework Directive.

¹⁰ See Commission comments in cases IT/2008/0779, SK/2012/1313, BG/2012/1318, CZ/2012/1327, GI/2011/1248 and MT/2012/1330.

The Commission's position on this particular notification is without prejudice to any position it may take *vis-à-vis* other notified draft measures.

Pursuant to Point 15 of Recommendation 2008/850/EC¹¹ the Commission will publish this document on its website. The Commission does not consider the information contained herein to be confidential. You are invited to inform the Commission¹² within three working days following receipt whether you consider that, in accordance with EU and national rules on business confidentiality, this document contains confidential information which you wish to have deleted prior to such publication.¹³ You should give reasons for any such request.

Yours sincerely,
For the Commission,
Robert Madelin
Director-General

¹¹ Commission Recommendation 2008/850/EC of 15 October 2008 on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services, OJ L 301, 12.11.2008, p. 23.

¹² Your request should be sent either by email: CNECT-ARTICLE7@ec.europa.eu or by fax: +32 2 298 87 82.

¹³ The Commission may inform the public of the result of its assessment before the end of this three-day period.